

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Evans on February 12, 2008.

The application has been amended as follows:

Cancel claim 3.

In claim 4, line 1, delete “3” and replace with --1--.

In claim 9, line 2, delete “and/or the tying layer”.

Cancel claim 10.

In claim 15, line 7, after “together” and before the period, add --, characterized in that the base layer is made of metal or plastic-coated metal, and the tying layer is cross-linked polyethylene or grafted polyethylene--

In claims 16 and 17, change the status identifier from “withdrawn” to --previously presented--

In claim 22, line 7, after “together” and before the period, add --, characterized in that the base layer is made of metal or plastic-coated metal, and the tying layer is cross-linked polyethylene or grafted polyethylene--

2. Claims 1-2, 4-9, 11-12, and 15-22 are allowable. The restriction requirement between the related inventions of a tubular product and a joint for joining the tubular products, as set forth in the Office action mailed on January 27, 2004, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 16-17, directed to the joint for joining two products according to claim 1 together are no longer withdrawn from consideration because the claims require all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

3. The drawings received on May 6, 2004 are acceptable.
4. The following is an examiner's statement of reasons for allowance: Each independent claim identifies the uniquely distinct combination of limitations that "the base layer is made of metal or plastic-coated metal" and the foamed adhesion plastic tying layer "is cross-linked polyethylene or grafted polyethylene." The closest prior art Maimets, Doucet, and Nishidome disclose conventional tubular products, which either singularly or in combination, fail to anticipate or render obvious the above combination of limitations. Specifically, Maimets does not teach that the foamed plastic is adhesive and adheres to the innermost layer or that it is continuously and meltingly extruded simultaneously with the innermost layer against the base layer. Doucet teaches splitting an inner and outer plastic layer and applying a foamed plastic layer as tying layer between the plastic layers and provides no motivation to substitute one of the plastic layers with the claimed base layer of metal or plastic-coated metal. Finally, Nishidome teaches a metal or plastic-coated metal base layer for the tubular product but provides no teaching leading one of ordinary skill in the art to use a tying layer of cross-linked polyethylene or grafted polyethylene.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER P. BRUENJES whose telephone number is (571)272-1489. The examiner can normally be reached on Monday thru Friday from 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher P Bruenjes
Examiner
Art Unit 1794

/C. P. B./
Examiner, Art Unit 1794
February 14, 2008

/Alicia Chevalier/
Primary Examiner, Art Unit 1794